



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,001	02/09/2001	Michael B. Stennicke	24193-00	6428

26418 7590 06/04/2004

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

EXAMINER

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
----------	--------------

2141

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,001

Applicant(s)

STENNICKE, MICHAEL B.

Examiner

Kristie Shingles

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/09/2001</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. 120. The certified copy has been filed in Provisional Application No. 60/233,771, filed on 09/19/00.
2. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/09/01 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the Office. An initialed and dated copy of Applicant's IDS form 1449 is attached to the instant Office action.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 15, 72a, 96, 174, 202, 245, and Fig. 9 (not mentioned in the Brief Description Of Drawings). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in

Art Unit: 2141

the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 76a, 78d, 80c, 82b, 92a, and 94b. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because it contains embedded hyperlinks and/or other form of browser-executable code (See pages 2 and 3, for example). Applicant is required to delete all of the embedded hyperlinks and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2141

8. Claims 1-5 and 7-9 rejected under 35 U.S.C. 102(e) as being anticipated by Kenner et al (U.S. 5,956,716).

a. Per claim 1, Kenner et al teaches a method of exchanging multimedia data among at least one master and a plurality of catchers over an electronic network of computing devices, the data being exchanged among a plurality of computing devices connected to the network, at least one of the plurality of computing devices performing functionality of an exchange, the method comprising the steps of:

- preparing by the master of at least one tender for requesting multimedia data of interest and submitting said tender to one or more of the plurality of catchers (Fig.1 and col.4, lines 54-59; user builds request and submits it to a local storage and retrieval unit which then forwards the request to the primary index manager);
- acquiring and uploading by the one or more of the plurality of catchers said requested multimedia data to the exchange (col.5, lines 8-16; the data sequencing interface collects the data and transmits it to the primary index manager and/or local storage and retrieval units); and
- selecting by the master among said uploaded multimedia data by downloading said selected multimedia data from the exchange (col.5, lines 17-20; from the local storage and retrieval units, the data is downloaded to the user's terminal).

b. Per claim 2, Kenner et al teaches the method of claim 1, further including a step of registering a plurality of users, said plurality of users being indexed as the master and/or as a catcher of said plurality of catchers (col.24, lines 47-50 and col.21, lines 36-col.22, lines 1-60; the primary index manager maintains a database for registering user's subscriptions, preferences, and billing information in addition to maintaining information on the multimedia data stored in extended storage and retrieval units).

c. Per claim 3, Kenner et al teaches the method of claim 2, wherein the step of preparing and submitting said tender further including steps of:

Art Unit: 2141

- creating a data path over the network between the exchange and one of the plurality of computing devices used by the master (col.4, lines 43-53 and col.8, lines 51-65; a datapath is implemented by virtue of the distributed computer system or network where users can communicate with the storage unit and database managers) ;
- presenting said tender to said exchange by e-mail or posting on exchange's web page (col.33, lines 38-57 and col.34, lines 29-39; by signing up for subscriptions on web pages the requests are thereby posted onto web page or the web server and subscriptions maintained and acknowledged at the primary index manager—using browser extensions to submit requests to the primary index manager also qualify as postings); and
- selecting one or more of the plurality of catchers to whom said tender should be routed and routing said tender to the selected catchers (col.4 lines 54-66, col.15 lines 24-30, and col.10 lines 10-21; the primary index manager and storage retrieval unit both route the request depending on where the data is located, if data is not available at the local storage and retrieval unit, then the primary index manager selects remote devices to ascertain the data).

d. Per claim 4, Kenner et al teaches the method of claim 3, wherein the step of routing is performed by e-mailing said tender to the selected catcher or posting said tender in an electronic mail box of the selected catcher on a web page of the exchange (col.13, lines 35-54 and col.23, lines 66-col.24 lines 1-13; routing from the local storage and retrieval unit to the primary index manager involves passing information in the form of a virtual address that includes the internet address of the primary index manager recognizable and accepted by Netscape Navigator and other network browsers, which in turn functions as an electronic mailbox of the primary index manager).

e. Per claim 5, Kenner et al teaches the method of claim 4, wherein said step of acquiring and uploading further includes the steps of:

- recording said multimedia data by the one or more catchers according to a request outlined in said tender prepared by said master (col.16, lines 44-61 and col.19,

Art Unit: 2141

lines 22-30; once location of the requested data is found the storage and retrieval units download the data for storage and transmission to user terminals);

- creating thumbnails and descriptions for each unit of said multimedia data (col.18 lines 44-58, col.19 lines 40-48, col.28 lines 18-58, and col.31 lines 65-col.32 1-8, 38-50; the content provider provides textual descriptions and audio-visual segments of the requested data); and
- uploading said recorded multimedia data and said thumbnails and descriptions to said exchange (col.10, lines 40-57 and col.32, lines 64-col.33, lines 1-20; audio-visual segments and textual segments are stored in the primary index manager or the one of the local/remote storage and retrieval units).

f. Per claim 7, Kenner et al teaches the method of claim 5, wherein the step of selecting further including the step of listing all the multimedia submitted in reply to said tender and all the multimedia that was uploaded to the exchange in the past and is equivalent to the tender (col.5, lines 1-7 and col.23, lines 14-23; the primary index manager keeps track of a list of data requested by and available to a user).

g. Per claim 8, Kenner et al teaches the method of claim 7, further including the step of setting a price for each unit of said submitted multimedia data by the plurality of catchers (col.33, lines 65-col.34, lines 1-15; prices can be set for data downloaded by the users from the primary index manager).

h. Per claim 9, Kenner et al teaches the method of claim 8, further including the steps of:

- billing the master with said set price of said selected and downloaded multimedia data (col.6, lines 17-26; users are billed for the price of the downloaded data) and
- crediting the one or more catchers with the price of said selected submitted multimedia data (col.34, lines 16-28; subscription fees for requested data are credited to the data/content providers).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al as applied to claims 1-5 above, and further in view of Gunaseelan et al (U.S. 6,601,136).

a. Whereas, Kenner et al teaches from above on the method of claim 4, wherein said step of acquiring and uploading further includes the steps of: recording said multimedia data by the one or more catchers according to a request outlined in said tender prepared by said master; creating thumbnails and descriptions for each unit of said multimedia data; and uploading said recorded multimedia data and said thumbnails and descriptions to said exchange—Kenner et al fails to teach on the method of claim 5, wherein said step of recording further including the step of directing in real-time by the master of the catcher in recording of said requested multimedia data. However, Gunaseelan et al teaches the method of claim 5 wherein the step of recording further includes the step of directing in real-time streaming digital media with a live-encoded source and transmitted to user terminals (col.3, lines 2-10 and col.6, lines 14-29).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to allow real-time directing/playback of digital media for the purpose of providing instant media and data access to users. One skilled in the art would have been motivated to generate the claimed invention in order to enable fast media transmission.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Graham (U.S. 6,732,183) disclosed a computer system providing streaming video and audio media to a plurality of clients over a network.

b. Stumm (U.S. 5,768,528) disclosed a method for operating a server system adapted to provide information files to a plurality of subscribers over a communications network, such as the Internet.

c. Ottesen et al (U.S. 5,930,493) disclosed a multimedia server system and method for communicating multimedia information.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 703-605-4244. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2141

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds

A handwritten signature in black ink, appearing to read 'Rupal Dharia', with a stylized, flowing script.

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER